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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/768,476

01/24/2001

Bruce A. Fogelson

6040/80679

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08/23/2005

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/768,476

Applicant(s)

FOGELSON, BRUCE A.

Examiner

Steven B. McAllister

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 and 36 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-34 and 36 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Note Regarding Examination

It is noted that as required by MPEP 2144.03(C), the "notoriously old and well known" or "old and well known" statements made regarding certain subject matter in the Office Action of 11/18/2004 are interpreted as admitted prior art since such statements must be traversed in the subsequent response or be deemed admitted.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1, 13 and 25 recite that a website provides a specific list of services, as clarified by Applicant's amendment. In light of this clarification, the original disclosure does not appear to show that the selected contract support services are incorporated into a modification of the pre-existing contract.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 13 and 25 recite a list of contract support services. However, it is not clear whether the Applicant intends for the claim to recite that all recited services are provided by the website, or that at least one of the services is provided by the website.

Also regarding claims 1, 13, 25, the claims recite "tax", "government", and "permits" as services. However, as understood by the examiner these services are provided by the government, not the third party.

Claims 2, recite "post-sale", but is unclear when the point of sale is intended. In examining the claims, it was assumed to be the time of contracting and provision of some consideration by the buyer. It is noted that the reference to "post-sale was removed in all other claims in response to the last office action, and it appears that this instance may remain as a typo.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6, 11-18, and 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fino et al (5,991,769) in view of Broerman (6,954,633).

Regarding claims 1, 13 and 25, Fino et al show the customer and builder entering into a contract; providing an interface for selection of options for installation under the pre-existing contract; receiving from the customer through the interface a selection of an option via its selection on a provided electronic form by the contractor (note that the figures show browsing through options and selecting the option of a fireplace while an approved contract exists) and the selection of contract support services (lending prequalification and determination of tax benefits in Fig. 4A). It further shows incorporating the options, content and services into a contract change. It inherently shows collecting by the contractor from the customer a fee based upon the received selection made by the customer comprising the cost of the new option. Fino et al also show providing a second interface for associated with the first interface for entry of information related to the customer by the builder. Fino et al do not show that providing the first and second interfaces comprises providing a first website and second website by a third party; or that receiving from the customer selections through the interface comprises receiving the selections via the first website. Broerman shows providing first and second password protected websites as interfaces hosted by a third party. It would have been obvious to one of ordinary skill in the art to modify the method of Fino et al by providing first and second password protected websites as an interface to the system and receiving the inputs via the website in order to allow selection of options by the customers outside office hours.

As to claims 2, 14, and 26, Fino et al show forms providing product information, contract, financing and closing and post-sale forms and information (since it shows forms showing move in costs (Fig. 4C, e.g.) it shows forms and information relating to closing).

As to claims 3, 15, and 27, Fino et al in view of Broerman show providing purchase information and pre-purchase information. It does not show providing the other information types. However, it is notoriously old and well known in the art to provide such information. It would have been obvious to one of ordinary skill in the art to do so in order to provide useful information to clients (and therefore attract more users to the site) and to collect additional revenue via affiliate programs with service providers.

As to claims 4, 5, 15, 16, 28, and 29, Fino et al in view of Broerman show all elements of the claims except purchasing extras with an online deposit system. However, this is notoriously old and well known in the art (and interpreted as admitted prior art). (For instance, Dell computer and FTD provide for buying extras comprising options or upgrades and for paying for them via an electronic deoposit system). It would have been obvious to one of ordinary skill in the art to further modify the method Fino et al by purchasing extras using an online deposit system in order to quickly and conveniently secure their purchase (via Visa or Mastercard, for example).

As to claims 11, 23, and 35, Fino et al in view of Broerman show all elements except charging up-front access, web design fees and data service fees to the builder and advertisers. However, it is notoriously old and well known in the art (and interpreted as admitted prior art) to do so. It would have been obvious to one of ordinary skill in the art to charge such fees in order to recover costs of resources used by the builders and advertisers.

As to claims 12, 24, and 36, Fino et al in view of Broerman show all elements except advertising products on the website. However, it is notoriously old and well known in the art (and interpreted as admitted prior art) to allow advertising of products or services on a website. It would have been obvious to one of ordinary skill in the art to do so in order to get additional revenue from advertising.

Claims 7-10, 19-22 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fino et al in view of Broerman as applied to claims 1, 13 and 25 above, and further in view of by "RFP Marketing Opportunities Abound At: 'Design Your Dream House'" (RFP).

Fino et al in view of Broerman show all elements of the claims except collecting data concerning buying trends. It would have been obvious to one of ordinary skill in the art to further modify the method of Fino et al by collecting such data in order to know which options are more popular and in order to have aggregate data to sell to other entities.

As to claims 8, 20, and 32, Fino et al in view of Broerman show all elements of the claim except allowing manufacturers, sub-contractors, and vendors to view potential orders, groups of orders, and products viewed (and ordered) by customers in order to provide bids. RFP shows this element. It would have been obvious to one of ordinary skill in the arts to further modify the method of Fino et al by providing the information to the recited actors in order to better coordinate.

As to claims 9, 10, 21, 22, 33 and 34, Fino et al in view of Broerman show all elements except providing web and communications tools to the builder, sub-contractors and suppliers, comprising at least messaging. RFP shows providing such communication (e.g., 2d full paragraph of pg. 3). It would have been obvious to one of ordinary skill in the art to further modify the method of Fino et al by providing communications comprising messaging in order to better coordinate.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is 571-272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven B. McAllister

Steven B. McAllister
Primary Examiner
Art Unit 3627

STEVE B. MCALLISTER
PRIMARY EXAMINER